

**AMENDMENTS TO THE CLAIMS AFTER ALLOWANCE:**

*Please amend the claims as follows:*

1. (Previously presented) A promoter comprising an isolated DNA molecule having a fragment of SEQ ID NO:6 of at least 300 nucleotides or comprising an isolated DNA molecule having at least 95% sequence identity to the sequence set forth in SEQ ID NO:8.

Claims 2-70. (Cancelled).

71. (Previously presented) The promoter of claim 1, wherein the DNA molecule is as set forth in SEQ ID NO:6 or 7.

72. (Cancelled)

73. (Previously presented) A monocotyledonous plant comprising the promoter of claim 1 operably linked to a heterologous nucleic acid, wherein the heterologous nucleic acid is expressed constitutively in the monocotyledonous plant.

74. (Previously presented) A non-graminaceous monocotyledonous plant comprising the promoter of claim 1 operably linked to a heterologous nucleic acid, wherein the heterologous nucleic acid is expressed constitutively in the non-graminaceous monocotyledonous plant.

75. (Previously presented) The non-graminaceous monocotyledonous plant of claim 74, wherein the non-graminaceous monocotyledonous plant is selected from the group consisting of *Musaceae*, taro, ginger, onions, garlic, pineapple, bromeliads, palms, orchids, lilies and irises.

76. (Previously presented) The non-graminaceous monocotyledonous plant of claim 74, wherein the non-graminaceous monocotyledonous plant is taro.

77-86. (Cancelled).

87. (Previously presented) A chimeric DNA construct comprising the promoter of claim 1 operably linked to a heterologous DNA sequence to be transcribed.

88. (Previously presented) The construct of claim 87, further comprising a 3' non-

translated sequence that is operably linked to the heterologous DNA sequence that functions in plant cells to terminate transcription and/or to cause addition of a polyadenylated nucleotide sequence to the 3' end of a transcribed RNA sequence.

89-92. (Cancelled).

93. (Previously presented) The construct of claim 87, wherein the heterologous DNA sequence to be transcribed encodes a structural or regulatory protein.

94. (Previously presented) The construct of claim 87, wherein the heterologous DNA sequence to be transcribed encodes a transcript capable of modulating expression of a corresponding target gene.

95. (Previously presented) The construct of claim 94, wherein the transcript comprises a transcribed region for downregulating the expression of the corresponding target gene.

96. (Previously presented) The construct of claim 94, wherein the transcript comprises a transcribed region comprising a molecule selected from the group consisting of a sense suppression molecule, an antisense RNA, a ribozyme and an RNAi molecule.

97. (Previously presented) The construct of claim 87, further comprising an enhancer element.

**98. (Currently amended)** The construct of claim 87, further comprising a leader sequence which ~~modulated~~ modulates mRNA stability.

99. (Previously presented) The construct of claim 87, further comprising a nucleic acid sequence encoding a targeting sequence for targeting a protein product of the heterologous DNA to be targeted to an intracellular compartment within plant cells or to an extracellular environment.

100. (Previously presented) The construct of claim 87, further comprising a selectable marker gene.

101. (Previously presented) The construct of claim 87, further comprising a screenable marker gene.

102. (Previously presented) A host cell comprising the chimeric DNA construct of

claim 87.

103. (Previously presented) The host cell of claim 102, wherein the host cell is a plant cell.

104. (Previously presented) The host cell of claim 102, wherein the host cell is a monocotyledonous plant cell.

105. (Previously presented) The host cell of claim 102, wherein the host cell is a non-graminaceous monocotyledonous plant cell.

106. (Previously presented) The host cell of claim 102, wherein the host cell is a non-graminaceous monocotyledonous plant cell selected from the group consisting of *Musaceae*, taro, ginger, onions, garlic, pineapple, bromeliads, palms, orchids, lilies and irises.

107. (Previously presented) The host cell of claim 102, wherein the cell is a graminaceous monocotyledonous plant cell.

108. (Previously presented) The host cell of claim 102, wherein the cell is a dicotyledonous plant cell.

109. (Previously presented) A method for gene expression in a plant, comprising introducing into a plant cell a chimeric DNA construct comprising the promoter of claim 1 operably linked to a heterologous DNA sequence to be transcribed.

110. (Previously presented) A method for producing transformed plant cells, comprising:

- (a) introducing into regenerable plant cells a chimeric DNA construct comprising the promoter of claim 1 operably linked to a heterologous DNA sequence to be transcribed, so as to yield transformed plant cells; and

- (b) identifying or selecting transformed plant cells.

111. (Previously presented) A method for selecting stable genetic transformants from transformed plant cells comprising:

- (a) introducing into regenerable plant cells a chimeric DNA construct comprising the promoter of claim 1 operably linked to a heterologous DNA sequence to

be transcribed, so as to yield transformed plant cells; and

(b) identifying or selecting a transformed plant cell line from said transformed plant cells.

112. (Currently amended) A method for producing a differentiated transgenic plant, comprising:

(a) introducing into regenerable plant cells a chimeric DNA construct comprising the promoter of claim 1 operably linked to a heterologous DNA sequence to be transcribed, so as to yield regenerable transformed plant cells; ~~and~~

(b) identifying or selecting a population of transformed plant cells; **And and**

(c) regenerating a differentiated transgenic plant from the population.

113. (Previously presented) The method of claim 109, wherein the cell is a dicotyledonous plant cell.

114. (Previously presented) The method claim 109, wherein the cell is a monocotyledonous plant cell.

115. (Previously presented) The method of claim 109, wherein the cell is a graminaceous monocotyledonous plant cell.

116. (Previously presented) The method of claim 109, wherein the cell is a non-graminaceous monocotyledonous plant cell.

117. (Previously presented) The method of claim 109, wherein expression of the chimeric DNA construct in the transformed cell imparts a phenotypic characteristic to the transformed cell.

118. (Previously presented) The method of claim 109, wherein the construct comprises a selectable marker gene.

119. (Previously presented) The method of claim 109, wherein the construct comprises a screenable marker gene.

120. (Previously presented) The method of claim 112, wherein expression of the chimeric DNA construct renders the differentiated transgenic plant identifiable over a corresponding non-transgenic plant.

121. (Previously presented) The method of claim 112, further comprising obtaining progeny from the differentiated transgenic plant.

122. (Previously presented) Progeny obtained by the method of claim 121, wherein said progeny comprise said promoter and operably linked heterologous DNA sequence.

123. (Previously presented) A plant part of the differentiated transgenic plant obtained from the method of claim 112, wherein the plant part contains the promoter and operably linked heterologous DNA sequence.

124. (Previously presented) A differentiated transgenic plant regenerated from transformed plant cells obtained by the method of claim 110.

125. (Previously presented) A transformed plant cell containing a chimeric DNA construct comprising the promoter of claim 1 operably linked to a heterologous DNA sequence to be transcribed; wherein the heterologous DNA is constitutively expressed.

126. (Previously presented) A differentiated transgenic plant comprising plant cells containing a chimeric DNA construct comprising the promoter of claim 1 operably linked to a heterologous DNA sequence to be transcribed.

127. (Previously presented) The transgenic plant of claim 126, wherein the plant is a dicotyledonous plant.

128. (Previously presented) The transgenic plant of claim 126, wherein the plant is a monocotyledonous plant.

129. (Previously presented) The transgenic plant of claim 126, wherein the plant is a graminaceous monocotyledonous plant.

130. (Previously presented) The transgenic plant of claim 126, wherein the plant is a non-graminaceous monocotyledonous plant.

131. (Previously presented) The transgenic plant of claim 126, wherein the construct comprises a selectable marker gene.

132. (Previously presented) The transgenic plant of claim 126, wherein the construct comprises a screenable marker gene.

133. (Previously presented) The transgenic plant of claim 126, wherein the expression

of the chimeric DNA construct renders the differentiated transgenic plant identifiable over the corresponding non-transgenic plant.

**134. (Currently amended)** A method of using **[[of]]** a chimeric DNA construct in the production of a transformed plant cell, plant or plant part; said method comprising introducing into a plant cell the promoter of claim 1 operably linked to a heterologous DNA sequence to be transcribed.

135-138. (Cancelled).